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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/894,054	06/28/2001	Mark E. Peters	RSW920010020US1	5416

7590 11/24/2003

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EXAMINER

LE, KIET T

ART UNIT	PAPER NUMBER
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2683

DATE MAILED: 11/24/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/894,054

Applicant(s)

PETERS ET AL.

Examiner

Kiet T Le

Art Unit

2683

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-45 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1 - 45 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) The invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 6 -15, 16, 21 - 30, 31, and 36 - 45 are rejected under 35 U.S.C. 102(b) as being anticipated by Bremer (US-6018671).

Regarding **claims 1, 16 and 31** Bremer discloses a method for answering a wireless telephone, the method comprising:
receiving an incoming call (see fig. 1 (102), col. 1, lines 55-58);
responsive to a determination that automatic call answering has been selected by a user (see col. 4 lines 16 – 21), answering the incoming call by providing the calling party with an indication that the user will take the call momentarily and placing the wireless telephone in mute mode until the user has taken the incoming call (see col. 4 lines 43 – 51).

Regarding **claims 6, 21 and 36**, Bremer discloses notifying the user of the incoming call (see col.1, lines 55 – 58); and presenting the user with options as to how to dispose of the call (see col. 1, line 64 to col. 2, line 5).

Regarding **claims 7, 22 and 37**, Bremer discloses the options include allowing automatic call answering to answer the incoming call (see col. 1, lines 55 – 62) and at least one of allowing the user to answer the incoming call (see col. 1, lines 64 – 67), allowing voice mail to take the incoming call (see col. 4, lines 1 – 4) and allowing the

incoming call to go unanswered (see col.3, lines 65 – 67).

Regarding **claims 8, 23 and 38**, Bremer discloses the step of providing the calling party with an indication that the user will take the call momentarily includes sending a voice message to the calling party (see col. 3, lines 61 to col. 4, lines 4).

Regarding **claims 9, 24 and 39**, Bremer discloses the voice message is a prerecorded message (see col. 1, lines 60 - 62).

Regarding **claims 10, 25 and 40**, Bremer discloses the voice message is generated by a voice generation unit (see col. 2, lines 29 – 36).

Regarding **claims 11, 26 and 41**, the step of providing the calling party with an indication that the user will take the call momentarily includes sending a text message to the calling party (see col. 3, lines 61 – 64). ?

Regarding **claims 12, 27 and 42**, Bremer discloses the step of providing the calling party with an indication that the user will take the call momentarily comprises a selectable message selected from a plurality of possible messages (see col. 4, lines 14 – 21).

Regarding **claims 13, 28 and 43**, Bremer discloses the selectable message is selected based on the identity of the calling party (see col. 4, lines 14 – 21).

Regarding **claims 14, 29 and 44**, Bremer discloses the selectable message is selected based on the time (see col. 4, lines 4 – 5).

Regarding **claims 15, 30 and 45**, Bremer discloses the selectable message is selected by the user (see col.4, lines 14 – 21);

providing the calling party with an indication that the user will take the call momentarily and placing the wireless telephone in mute mode until the user has taken the incoming call (see col. 4 lines 43 – 51).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 2 - 5, 17 - 20 and 32 - 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bremer in view of Levinton et al (US – 6501751).

Regarding to **claims 2, 17 and 32**, Bremer discloses the indication that the user will take the call momentarily provides an indication to the calling party (see col. 4 lines 43 – 51). However, Bremer failed to disclose that the user will be using a speech phrase generator to conduct a conversation. Levinton teaches that the user will be using a speech phrase generator to conduct a conversation (see Levinton, col. 5, lines 5 – 7). Therefore, it would have been obvious to one of the ordinary skills in the art at the time of invention to provide the above teaching of Levinton to Bremer, in order to add the speech generation feature to cellular phones to allow the user to communicate with calling party without using his voice.

Regarding to **claims 3, 18, and 33**, the combination of Bremer and Levinton disclose providing audio of the calling party to the user (see Bremer col. 3, lines 6 – 10);

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and responsive to selection of a speech phrase by the user, sending a speech phrase to the calling party (see Levinton, col. 5, lines 5 –7).

Regarding to **claims 4, 9 and 34**, the combination of Bremer and Leviton disclose the speech phrase is prerecorded (see Bremer col. 1, lines 60 – 62).

Regarding to **claims 5, 20 and 35**, the combination of Bremer and Leviton disclose the speech phrase is generated using a voice generation unit (see col. 2, lines 29 – 36).

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Fernandez et al. -Telecommunications system for Dynamically selecting conversation topics having an automatic call back feature (US – 5,596,634).

6. Any inquiry concerning this communication or earlier communication from the examiner should be directed to Kiet Le whose telephone number is (703) 305-9006. The examiner can normally be reached on Monday-Friday from 8:00 am to 6:00pm.

If attempts to reach the examiner by phone are unsuccessful, the examiner's supervisor, William Trost can be reached on (703)-308-5318. The fax number for this group is (703) 872-9314.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

Kiet Le.

Nov 18, 2003



NGUYEN T. VO
PRIMARY EXAMINER